

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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BRIAN BURKE,	:	
	:	<u>ORDER</u>
Plaintiff,	:	
	:	18 Civ. 4496 (PGG) (GWG)
-v.-	:	
VERIZON COMMUNICATIONS, INC.,	:	
et al.	:	
	:	
Defendants.	:	
-----X	:	

**GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE**

The Court is in receipt of a letter from plaintiff dated June 29, 2021 (Docket # 164) (“June 29 Letter”). In the letter, plaintiff seeks to compel the remaining defendants in this case to respond to discovery requests that plaintiff propounded on November 30, 2020. See June 29 Letter at \*1, \*5. Additionally, plaintiff asks for a referral to the Court’s mediation program and seeks a new briefing schedule for defendants’ proposed motion for summary judgment.

Motion to Compel

The Court issued a scheduling order in this case setting a February 26, 2021, deadline for fact discovery. See Order, filed October 27, 2020 (Docket # 152) (“Scheduling Order”), ¶ 4. The Order provided that discovery “applications . . . must be made promptly after the cause for such an application arises.” Id. ¶ 10. In addition, we ordered that “absent extraordinary circumstances no such application will be considered if made later than 30 days prior to the close of discovery.” Id. Finally, we warned that “[u]ntimely applications will be denied.” Id. In a later Order, the Court extended the fact discovery deadline to May 21, 2021. See Order, filed February 19, 2021 (Docket # 156), at 2.

During the discovery period, plaintiff made no applications to this Court concerning defendants’ purported failure to comply with any discovery requests. Instead, the letter before the Court seeks to raise discovery disputes more than a month after the close of discovery, and more than two months after the deadline for such an application. See Scheduling Order ¶ 10. Plaintiff has not shown any good cause for failing to raise the disputes before now. Accordingly, plaintiff’s motion to compel is denied.



Mediation Request

The Court will issue a separate order referring the parties to the Court's mediation program. The parties may ask to cancel this referral at any time by letter filed on ECF.

Extending the Briefing Schedule on Defendants' Proposed Motion

The Court would be prepared to grant a reasonable extension of the deadline for defendants' proposed motion for summary judgment to avoid interfering with the settlement process. But it is up to defendants to make such an application since they are the only parties proposing to make a dispositive motion and thus are the only parties burdened by having the deadline.

Accordingly, the deadline for defendants to file the motion remains September 6, 2021 (per Docket # 163). As for the remaining briefing schedule, the parties should follow paragraph 2.B of the Courts' Individual Practices. The Court notes, however, that plaintiff's request for 11 weeks to respond to the motion (June 29 Letter at \*5) is extraordinary. The presumptive deadline for a response to a summary judgment motion is just 14 days. See Local Civil Rule 6.1(b). While some enlargement of this time period would undoubtedly be appropriate due to plaintiff's pro se status, 11 weeks is far too great a period absent some unusual circumstance. This issue need not be raised now, however, but should be raised instead at the time defendants' motion is filed.

Defendants are directed to email a copy of this Order to plaintiff's email address of brianburke@gmail.com.

Dated: New York, New York  
July 2, 2021

SO ORDERED:

  
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GABRIEL W. CORENSTEIN  
United States Magistrate Judge

Copy mailed by Chambers by U.S. Postal Mail.